

## IC 29-1-14

### Chapter 14. Claims Against the Estate

#### IC 29-1-14-1

##### **Limitations; filing; claims barred or not; liens; tort claims**

Sec. 1. (a) Except as provided in IC 29-1-7-7, all claims against a decedent's estate, other than expenses of administration and claims of the United States, the state, or a subdivision of the state, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, shall be forever barred against the estate, the personal representative, the heirs, devisees, and legatees of the decedent, unless filed with the court in which such estate is being administered within:

- (1) three (3) months after the date of the first published notice to creditors; or
- (2) three (3) months after the court has revoked probate of a will, in accordance with IC 29-1-7-21, if the claimant was named as a beneficiary in that revoked will;

whichever is later.

(b) No claim shall be allowed which was barred by any statute of limitations at the time of decedent's death.

(c) No claim shall be barred by the statute of limitations which was not barred at the time of the decedent's death, if the claim shall be filed within:

- (1) three (3) months after the date of the first published notice to creditors; or
- (2) three (3) months after the court has revoked probate of a will, in accordance with IC 29-1-7-21, if the claimant was named as a beneficiary in that revoked will;

whichever is later.

(d) All claims barrable under subsection (a) shall be barred if not filed within nine (9) months after the death of the decedent.

(e) Nothing in this section shall affect or prevent any action or proceeding to enforce any mortgage, pledge, or other lien upon property of the estate.

(f) Nothing in this section shall affect or prevent the enforcement of a claim for injury to person or damage to property arising out of negligence against the estate of a deceased tortfeasor within the period of the statute of limitations provided for the tort action. A tort claim against the estate of the tortfeasor may be opened or reopened and suit filed against the special representative of the estate within the period of the statute of limitations of the tort. Any recovery against the tortfeasor's estate shall not affect any interest in the assets of the estate unless the suit was filed within the time allowed for filing claims against the estate. The rules of pleading and procedure in such cases shall be the same as apply in ordinary civil actions.

*(Formerly: Acts 1953, c.112, s.1401; Acts 1961, c.287, s.1; Acts 1975, P.L.288, SEC.20.) As amended by Acts 1980, P.L.179, SEC.1; P.L.154-1990, SEC.9; P.L.252-2001, SEC.16.*

## **IC 29-1-14-2**

### **Actions; definite statement; personal representative actions; deductions from claims**

Sec. 2. No action shall be brought by complaint and summons against the personal representative of an estate for the recovery of any claim against the decedent or the decedent's estate, except in the enforcement of claims for injury to person or damage to property arising out of negligence as provided in section 1 of this chapter, but the holder thereof, whether such claim be due or not, shall file a succinct definite statement thereof in the office of the clerk of the court in which the letters were issued. The clerk shall send by United States mail or by personal service an exact copy of such statement to the personal representative of the estate. Any claims of the personal representative against the decedent shall be made out and filed in the office of the clerk of the court in which the letters were issued. If any claim against the decedent is founded upon any written instrument, alleged to have been executed by the decedent, the original or a complete copy thereof, shall be filed with the statement, unless it is lost or destroyed, in which case its loss or destruction must be stated in the claim. The statement shall set forth all credits and deductions to which the estate is entitled and shall be accompanied by the affidavit of the claimant or the claimant's agent or attorney, that the claim, after deducting all credits, set-offs, and deductions to which the estate is entitled, is justly due and wholly unpaid, or if not yet due, when it will or may become due, and no claim shall be received unless accompanied by such affidavit. If the claim is secured by a lien on any real or personal property, such lien shall be particularly set forth in such statement, and a reference given to where the lien, if of record, will be found. If the claim is contingent, the nature of the contingency shall also be stated. No statement of claim need be filed as provided in this section as to those claims which are paid by the personal representative within three (3) months after the date of the first published notice to creditors or the period allowed under IC 29-1-7-7. However, in instances where a cause of action was properly filed and commenced against a decedent prior to the decedent's death, the same shall be continued against the personal representative or successors in interest of the deceased, who shall be substituted as the party or parties defendant in such action, and in such instance it shall not be necessary for the claimant to file a claim as herein provided. In any action thus continued the recovery, if any, shall be limited as otherwise provided by law.

*(Formerly: Acts 1953, c.112, s.1402; Acts 1959, c.179, s.1; Acts 1961, c.287, s.2; Acts 1965, c.144, s.1; Acts 1975, P.L.288, SEC.21.) As amended by P.L.118-1997, SEC.20; P.L.252-2001, SEC.17.*

## **IC 29-1-14-3**

### **Future claims; payment; bonds**

Sec. 3. Upon proof of a claim which will become due at some future time, the court shall allow it at the present value thereof, and payment may be made as in the case of an absolute claim which has been allowed: Provided, if the obligation upon which such claim was

founded was entered into before January 1, 1954, payment may be made as above, if the creditors agree thereto. If payment is not made as above provided, the court may order the personal representative to retain in his hands sufficient funds to satisfy the claim upon maturity; or if the distributees shall give a bond to be approved by the court for the payment of the creditor's claim in accordance with the terms thereof, the court may order such bond to be given in satisfaction of such claim and the estate may be closed.

*(Formerly: Acts 1953, c.112, s.1403.) As amended by Acts 1982, P.L.171, SEC.36.*

#### **IC 29-1-14-4**

##### **Actions; joint contracts and judgment**

Sec. 4. No action shall be brought by complaint and summons against any personal representative and any other person or persons, or his or their legal representatives, upon any contract executed jointly, or jointly and severally, by the deceased and such other person or persons, or upon any joint judgment founded thereon; but the holder of said contract or judgment shall enforce the collection thereof against the estate of the decedent only by filing his claim as provided in section 2 of this chapter.

*(Formerly: Acts 1953, c.112, s.1404.) As amended by Acts 1982, P.L.171, SEC.37.*

#### **IC 29-1-14-5**

##### **Joint contracts and judgments deemed joint and several**

Sec. 5. Every contract executed jointly by the decedent with any other person or persons, and every joint judgment founded on such contract, shall be deemed to be joint and several for the purpose contemplated in section 4 of this chapter; and the amount due thereon shall be allowed against the estate of the decedent as if the contract were joint and several.

*(Formerly: Acts 1953, c.112, s.1405.) As amended by Acts 1982, P.L.171, SEC.38.*

#### **IC 29-1-14-6**

##### **Secured claims, allowance, and payment**

Sec. 6. The allowance and payment of secured claims shall be made in accordance with the "Uniform Act Governing Secured Creditors Dividends in Liquidation Proceedings," IC 30-2-7.

*(Formerly: Acts 1953, c.112, s.1406.) As amended by Acts 1982, P.L.171, SEC.39.*

#### **IC 29-1-14-7**

##### **Contingent claims; payment; bond of distributee**

Sec. 7. Contingent claims which cannot be allowed as absolute debts shall, nevertheless, be filed in the court. If allowed as a contingent claim, the allowance shall state the nature of the contingency. If such claim shall become absolute before distribution of the estate, it shall be paid in the same manner as absolute claims of the same class. In all other cases the court may provide for the payment of contingent claims

in any one of the following methods.

(a) The creditor and personal representative may determine, by agreement, arbitration or compromise, the value thereof, according to its probable present worth, and upon approval thereof by the court, it may be allowed and paid in the same manner as an absolute claim.

(b) The court may order the personal representative to make distribution of the estate but to retain in his hands sufficient funds to pay the claim if and when the same becomes absolute; but for this purpose the estate shall not be kept open longer than two (2) years after distribution of the remainder of the estate has been made; and if such claim has not become absolute within that time, distribution shall be made to the distributees of the funds so retained, after paying any costs and expenses accruing during such period and such distributees shall be liable to the creditor to the extent of the estate received by them, if such contingent claim thereafter becomes absolute. When distribution is so made to distributees, the court may require such distributees to give bond for the satisfaction of their liability to the contingent creditor.

(c) The court may order distribution of the estate as though such contingent claim did not exist, but the distributees shall be liable to the creditor to the extent of the estate received by them, if the contingent claim thereafter becomes absolute; and the court may require such distributees to give bond for the performance of their liability to the contingent creditor.

*(Formerly: Acts 1953, c.112, s.1407.)*

#### **IC 29-1-14-8**

##### **Contingent claims; liability of distributees; contribution**

Sec. 8. If a contingent claim shall have been filed and allowed against an estate, and all the assets of the estate including the fund, if any, set apart for the payment thereof, shall have been distributed, and the claim shall thereafter become absolute, the creditor shall have the right to recover thereon in the court having probate jurisdiction against those distributees whose distributive shares have been increased by reason of the fact that the amount of said claim as finally determined was not paid out prior to final distribution, provided an action therefor shall be commenced within three (3) months after the claim becomes absolute. Such distributees shall be jointly and severally liable, but no distributee shall be liable for an amount exceeding the amount of the estate or fund so distributed to him. If more than one (1) distributee is liable to the creditor, the distributee shall make all distributees who can be reached by process parties to the action. By its judgment the court shall determine the amount of the liability of each of the defendants as between themselves, but if any be insolvent or unable to pay his proportion, or beyond the reach of process, the others, to the extent of their respective liabilities, shall nevertheless be liable to the creditor for the whole amount of the debt. If any person liable for the debt fails to pay the person's just proportion to the creditor, the person shall be liable to indemnify all who, by reason of such failure on the person's part, have paid more than their just proportion of the debt, the indemnity to be recovered in the same action or in separate actions.

*(Formerly: Acts 1953, c.112, s.1408; Acts 1975, P.L.288, SEC.22.) As*

*amended by P.L.252-2001, SEC.18; P.L.1-2002, SEC.124.*

## **IC 29-1-14-9**

### **Classification of claims; preferences**

Sec. 9. (a) All claims shall be classified in one (1) of the following classes. If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- (1) Costs and expenses of administration.
- (2) Reasonable funeral expenses. However, in any estate in which the decedent was a recipient of public assistance under IC 12-1-1 through IC 12-1-12 (before its repeal) or any of the following, the amount of funeral expenses having priority over any claim for the recovery of public assistance shall not exceed the limitations provided for under IC 12-14-6, IC 12-14-17, and IC 12-14-21:
  - AFDC assistance.
  - AFDC burials.
  - AFDC IMPACT/J.O.B.S.
  - AFDC-UP assistance.
  - ARCH.
  - Blind relief.
  - Child care.
  - Child welfare adoption assistance.
  - Child welfare adoption opportunities.
  - Child welfare assistance.
  - Child welfare child care improvement.
  - Child welfare child abuse.
  - Child welfare child abuse and neglect prevention.
  - Child welfare children's victim advocacy program.
  - Child welfare foster care assistance.
  - Child welfare independent living.
  - Child welfare medical assistance to wards.
  - Child welfare program review action group (PRAG).
  - Child welfare special needs adoption.
  - Food Stamp administration.
  - Health care for indigent (HCI).
  - ICES.
  - IMPACT (food stamps).
  - Title IV-D (ICETS).
  - Title IV-D child support administration.
  - Title IV-D child support enforcement (parent locator).
  - Medicaid assistance.
  - Medical services for inmates and patients (590).
  - Room and board assistance (RBA).
  - Refugee social service.
  - Refugee resettlement.
  - Repatriated citizens.
  - SSI burials and disabled examinations.
  - Title XIX certification.
- (3) Allowances made under IC 29-1-4-1.
- (4) All debts and taxes having preference under the laws of the

United States.

(5) Reasonable and necessary medical expenses of the last sickness of the decedent, including compensation of persons attending him.

(6) All debts and taxes having preference under the laws of this state; but no personal representative shall be required to pay any taxes on any property of the decedent unless such taxes are due and payable before possession thereof is delivered by the personal representative pursuant to the provisions of IC 29-1.

(7) All other claims allowed.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, nor shall a claim due and payable be entitled to a preference over claims not due.

*(Formerly: Acts 1953, c.112, s.1409; Acts 1955, c.258, s.5; Acts 1965, c.371, s.1; Acts 1975, P.L.288, SEC.23.) As amended by Acts 1976, P.L.125, SEC.6; Acts 1979, P.L.268, SEC.5; P.L.2-1992, SEC.788.*

#### **IC 29-1-14-10**

##### **Allowance; disallowance; expenses of administration**

Sec. 10. (a) On or before three (3) months and fifteen (15) days after the date of the first published notice to creditors, the personal representative shall allow or disallow each claim filed within three (3) months after the date of the first published notice to creditors by making appropriate notations on the margin of the claim and allowance docket showing the action taken as to the claim. If a personal representative determines that the personal representative should not allow a claim in full, the claim shall be noted "disallowed". The clerk of the court shall give written notice to a creditor if a claim has been disallowed in full or in part. All claims that are disallowed, or are neither allowed nor disallowed within three (3) months and fifteen (15) days, shall be set for trial in the probate court upon the petition of either party to the claim. The personal representative shall make an appropriate notation of any compromise or adjustment on the margin of the claim and allowance docket. If the personal representative, after allowing a claim and before paying it, determines that the claim should not have been allowed, the personal representative shall change the notation on the claim and allowance docket from "allowed" to "disallowed" and give written notice to the creditor. If a claim has been paid in full or in part, the creditor shall:

(1) release the claim to the extent that the claim has been paid; and

(2) give written notice to the clerk of the court of the release.

(b) Claims for expenses of administration may be allowed upon application of the claimant or of the personal representative, or may be allowed at any accounting, regardless of whether or not they have been paid by the personal representative.

*(Formerly: Acts 1953, c.112, s.1410; Acts 1975, P.L.288, SEC.24.) As amended by P.L.154-1990, SEC.10; P.L.252-2001, SEC.19.*

#### **IC 29-1-14-11**

##### **Inquiry into correctness; liability on bond**

Sec. 11. Before allowing or paying claims against the estate he represents, it shall be the duty of every personal representative to inquire into the correctness of all claims against the estate and make all available defenses thereto, and if he fails so to do, he shall be liable on his bond, at the suit of any person interested in the estate, for all damages sustained by the estate in consequence of such neglect.

*(Formerly: Acts 1953, c.112, s.1411.)*

#### **IC 29-1-14-12**

##### **Trial; pleading; dismissal**

Sec. 12. (a) When any claim is transferred for trial, it shall not be necessary for the personal representative to plead any matter by way of answer, except a set-off or counter-claim, to which the plaintiff shall reply. If the personal representative pleads any other matter by way of defense, the claimant shall reply thereto; the sufficiency of the statement of the claim, or any subsequent pleading, may be tested by appropriate pleadings, and if objection be made that the assignor of a claim not assigned by endorsement is not a party to the action, leave shall be given the claimant to amend by making him a party to answer to his interest in the claim and to sue out process against the assignor to answer in that behalf. And if it shall be shown to the court that any person is bound with the decedent in any contract which is the foundation of the claim, the court shall direct that the claim be amended by making such person a defendant in the action, and process shall be issued against and served upon him, and thereafter the action shall be prosecuted against him as a codefendant with such personal representative and judgment shall be rendered accordingly.

(b) If any claimant fails to attend and prosecute his claim at the time the same shall be set down for trial, the court shall dismiss the claim; and any subsequent prosecution of the claim against the estate shall be at the costs of the claimant, unless good cause for such failure to prosecute be shown.

*(Formerly: Acts 1953, c.112, s.1412.) As amended by Acts 1978, P.L.132, SEC.7.*

#### **IC 29-1-14-13**

##### **Trial of claims; judgment; set-off or counterclaim**

Sec. 13. The trial of a claim under this chapter shall be conducted as in ordinary civil cases, and if the finding is for the claimant the court shall allow the claim in full or in part, and costs, to be paid out of the assets of the estate under section 19 of this chapter. If the claim sued on is secured by a lien upon property of the deceased, the date and extent shall be ascertained and fixed by the finding and judgment. If the finding is in favor of the personal representative upon a set-off or counter-claim, judgment shall be rendered thereon as in ordinary cases. If a set-off or counter-claim is pleaded, and the claim is afterward dismissed, the personal representative may nevertheless proceed to trial and judgment on the set-off or counter-claim.

*(Formerly: Acts 1953, c.112, s.1413.) As amended by P.L.118-1997, SEC.21.*



#### **IC 29-1-14-14**

##### **Petitions; defend claims; objections to payment**

Sec. 14. (a) In all cases when a claim is filed against the estate, and before it is paid, any person interested in the estate, upon written petition to the court, shall be allowed, at his expense, to defend such claim, and until such claim is adjudicated the personal representative shall not pay the same.

(b) In all cases when a claim against the estate is paid by the personal representative, without payment thereof having been ordered by the court, whether or not such claim has been filed, any person interested in the estate may raise whatever objections he may have to the payment of such claim by filing his objections to the next account of the personal representative, as provided in IC 29-1-16-7.

*(Formerly: Acts 1953, c.112, s.1414.) As amended by Acts 1982, P.L.171, SEC.40.*

#### **IC 29-1-14-15**

##### **Execution; final process; payment; mortgages, pledges, or liens; enforcement**

Sec. 15. No execution or other final process shall be issued on any allowance or judgment rendered upon a claim against a decedent's estate for the collection thereof out of the assets of the estate, but all such claims shall be paid by the personal representative in full or pro rata, in due course of administration; provided, however, the provisions of this section shall not be construed to prevent the enforcement of mortgages, pledges or other liens upon real or personal property in an appropriate proceeding.

*(Formerly: Acts 1953, c.112, s.1415.)*

#### **IC 29-1-14-16**

##### **Liens and mortgages, enforcement; sale of real estate; exception**

Sec. 16. Unless an earlier date is authorized by the judge of the court having jurisdiction of the decedent's estate no proceedings shall be instituted before the end of three (3) months from the death of the decedent to enforce the lien of any judgment rendered against the decedent in his lifetime upon real estate or to enforce any decree specifically directing the sale of such real estate to discharge any lien or liability created or suffered by the decedent, nor shall any suit be brought before that time against the heirs or devisees of the deceased to foreclose any mortgage or other lien thereon; and in case of suit to foreclose any mortgage or other lien thereon, the personal representative shall be made a party defendant thereto; and if the personal representative shall be diligently prosecuting his proceedings to sell the real estate of the deceased for the purpose of making assets to discharge such liens, further proceedings for the sale thereof by the holders of liens thereon shall be stayed, upon the application of the personal representative. This section does not apply to cases where, before the end of the three (3) months, the real estate shall have been sold by the personal representative subject to liens thereon, nor to mortgages and judgments in favor of the state.

*(Formerly: Acts 1953, c.112, s.1416; Acts 1975, P.L.288, SEC.25.) As*



*amended by P.L.252-2001, SEC.20.*

### **IC 29-1-14-17**

#### **Personal representative claims**

Sec. 17. (a) Whenever a claim in favor of a personal representative against the estate the personal representative represents that accrued before the death of the decedent is filed against an estate, with the affidavit of the claimant attached, the claim shall not be acted upon by the personal representative unless all interested persons who would be affected by the allowance of the claim consent in writing to it. If all interested persons do not consent to the payment of that claim, the judge shall appoint a special personal representative who shall examine the nature of the claim. If the special personal representative determines that the claim is just, the special personal representative shall allow the claim. If the special personal representative believes it is in the best interests of the estate to oppose the claim, the special personal representative may:

- (1) employ counsel to represent the special personal representative;
- (2) disallow the claim; and
- (3) ask the court to set the claim for trial.

The special personal representative and the special personal representative's counsel shall be paid out of the estate fees for services that the court determines reasonable and appropriate.

(b) Claims of personal representatives shall not be deemed civil actions or proceedings for the purpose of determining court costs, unless the court arranges for active opposition provided in this section. *(Formerly: Acts 1953, c.112, s.1417.) As amended by Acts 1978, P.L.132, SEC.8; P.L.118-1997, SEC.22.*

### **IC 29-1-14-18**

#### **Compromise of claims**

Sec. 18. The personal representative may, if it appears for the best interests of the estate, compromise any claim against the estate, whether due or not due, absolute or contingent, liquidated or unliquidated, but if such claim is not filed such compromise must be consummated within three (3) months after the date of the first published notice to creditors. In the absence of prior authorization or subsequent approval by the court, no compromise shall bind the estate. *(Formerly: Acts 1953, c.112, s.1418; Acts 1975, P.L.288, SEC.26.) As amended by P.L.252-2001, SEC.21.*

### **IC 29-1-14-19**

#### **Payment of claims; bond or security of creditor; report of insolvency**

Sec. 19. (a) The personal representative at any time shall pay the claims as the court shall order if the claims are filed within three (3) months after the date of the first published notice to creditors or the period allowed under IC 29-1-7-7, if applicable, and the court may require bond or security to be given by the creditor to refund such part of such payment as may be necessary to make payment in accordance

with this title.

(b) Prior to the expiration of three (3) months after the date of the first published notice to creditors or the period allowed under IC 29-1-7-7, the personal representative, if the estate clearly is solvent, may pay any claims that the personal representative believes are just and correct, whether or not the claims have been filed. The personal representative may require bond or security to be given by the creditor to refund any part of the payment as the court may subsequently order. The personal representative, following all such payments, shall include them in the personal representative's next account and they shall be considered proper payments under this title if they are approved by the court as a part of the account.

(c) Upon the expiration of three (3) months after the date of the first published notice to creditors or the period allowed under IC 29-1-7-7 and the final adjudication of all claims filed against the estate, the personal representative shall proceed to pay the claims that have been allowed against the estate in accordance with this title that the personal representative has not paid.

(d) If it appears at any time that the estate is or may be insolvent, that there are insufficient funds on hand, or that there is other good or sufficient cause, the personal representative may report that fact to the court and apply for any necessary order.

*(Formerly: Acts 1953, c.112, s.1419; Acts 1975, P.L.288, SEC.27.) As amended by P.L.154-1990, SEC.11; P.L.118-1997, SEC.23; P.L.252-2001, SEC.22.*

#### **IC 29-1-14-20**

##### **Mortgage; pledge; lien; payment; renewal; extension**

Sec. 20. When any assets of the estate are encumbered by mortgage, pledge or other lien, the personal representative may pay such encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance or may convey or transfer such assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has filed a claim, if it appears to be for the best interest of the estate. As to any such conveyance or transfer the personal representative must obtain prior authorization of the court and as to any such payment, renewal or extension the personal representative must obtain prior authorization or subsequent approval of the court. The making of such payment shall not increase the share of the distributee entitled to such encumbered assets unless otherwise provided by will.

*(Formerly: Acts 1953, c.112, s.1420.)*

#### **IC 29-1-14-21**

##### **Adverse claims; notice; trial**

Sec. 21. When any person claims any interest in any property in the possession of the personal representative adverse to the estate, the person may file, prior to the expiration of three (3) months after the date of the first published notice to creditors, a petition with the court having jurisdiction of the estate setting out the facts concerning such interest, and thereupon the court shall cause such notice to be given to

such parties as it deems proper, and the case shall be set for trial and tried as in ordinary civil actions.

*(Formerly: Acts 1953, c.112, s.1421; Acts 1975, P.L.288, SEC.28.) As amended by P.L.252-2001, SEC.23.*